

Advisory Opinion

IECDB AO 2008-10

August 28, 2008

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11) and rule 351—1.2, the Iowa Ethics and Campaign Disclosure Board issues this opinion on the campaign laws and payment for personal expenses. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

OPINION:

The issue has been raised whether the campaign laws would apply to a situation when a candidate left employment to campaign full-time and have another individual give the candidate money to cover personal expenses such as family bills.

Iowa Code section 68A.102(10) defines "contribution." It then exempts from that definition "something provided to a candidate for the candidate's personal consumption or use and not intended for or on behalf of the candidate's committee."

In applying this language, we believe that if the donation is truly for the candidate's "personal consumption or use" and is not intended to be used to advocate for the candidate's election, it would not be a campaign contribution and would not trigger the limitations and requirements of the campaign laws in Iowa Code chapter 68A.

We do note that under Iowa Code section 68B.22 (gift law) a "candidate" or the candidate's "immediate family member"¹ is prohibited from receiving a gift from a "restricted donor."² In applying the provisions of Iowa Code section 68B.22, the Board's jurisdiction is limited to candidates running for statewide office and political subdivision candidates. Candidates for the General Assembly would need to seek guidance from the House and Senate Ethics Committees on the application of Iowa Code section 68B.22 to their conduct.

As such, a candidate who is interested in receiving a donation for personal consumption in this manner needs to obtain guidance on the application of Iowa Code section 68B.22 prior to receiving the donation.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair

Janet Carl, Vice Chair

Gerald Sullivan

Betsy Roe

John Walsh

Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

¹ Iowa Code section 68B.2(11) defines "immediate family members" as the spouse and dependent children.

² See Iowa Code section 68B.2(24) for the definition of "restricted donor."